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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,619	12/05/2003	Joseph William Lowry	AN18D2	9069

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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,619

Applicant(s)

LOWRY ET AL.

Examiner

Carlos Lugo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-42, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) 1-20, 43, 44, 47 and 48 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-31, 45 and 46 is/are allowed.
- 6) ☒ Claim(s) 32-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to applicant's preliminary amendment filed on December 5, 2003.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elastic molded body, as claimed in claims 26,37 and 38, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:
 - Elements 10A, 11A, 12A, 14A, 16A, 34A, 40A and T_A are not described in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective

action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because of the phrase "the present invention" in lines 1 and 10. Correction is required. See MPEP § 608.01(b).

Claim Objections

6. **Claim 22,32 and 33 are objected** to because of the following informalities:
 - Claim 22 Line 2, cancel "and a lower side".

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- Claim 32 Line 17, change "a region selected from the lower side" as -a region from the group consisting of the lower side-. (See *Ex parte Markush*, 1925 C.D. 126 (Comm'r Pat. 1925).
- Claim 33 Line 2, cancel "and a lower side".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 32-36 and 39-42 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,447,005 to Giannuzzi.

Regarding claims 32 and 34, Giannuzzi discloses a spring fastener comprising a substantially flat head portion (10) comprising a first hole (11) and at least a lower side (10a and 10b).

The spring fastener further comprises a neck (12 and 13) having an opening and two side neck portions. The neck extends from the lower side of the substantially flat head portion at a substantially right angle with respect to the substantially flat head portion.

The spring fastener further comprises two substantially flat legs (19 and 20) extending from the neck. Each leg has inner surfaces that are at an initial proximity with each other. The legs are expandable in opposite directions upon insertion

through the first hole of an expansion member (23 and 24), thus bringing the expansion member to a contact region of the legs. Each leg also has side leg portions.

The spring fastener further comprises a funnel configuration (14) in the vicinity of the contact region.

And the spring fastener further comprises barbs (15 and 17). The barbs have a front point and an origin at a region from a group consisted of the lower side of the head portion, the side neck portion and the side leg portion. The barbs are directly outwardly away from the legs and then inwardly towards the legs (Figures 5 and 6). Also, the barbs have sliding portions in contact with at least one of the lower, upper and side edge of the slot (the curved portion at the origin in contact with the side edge of the slot, Figure 5).

As to claim 33, Giannuzzi discloses that the head portion includes an upper side.

As to claims 35 and 36, Giannuzzi discloses that the hole is substantially rounded.

As to claims 39-41, Giannuzzi discloses that the first hole (11) is engageable to the expansion member (23 and 24).

As to claim 42, Giannuzzi discloses that the proximal and distal barb sections have an angle, which angle is adequately large to allow the fastener to be removed from the first part without destruction of said fastener or said first part, when the removal takes place solely from the side of the first part, wherein the head of the fastener is positioned.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 37 and 38 rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,447,005 to Giannuzzi as applied to claim 1 above, and further in view of US Pat No 6,379,092 to Patel et al (Patel).

Giannuzzi fails to disclose that the fastener comprises an elastic body molded at least under the at least lower side of the head of the fastener.

Patel teaches that is known in the art to have a molded elastic body (7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a molded elastic body, as taught by Patel, into a device as described by Giannuzzi, in order to give a sealing protection against the environment where the fastener is used.

Allowable Subject Matter

11. **Claims 21-31,45 and 46 are allowed.**

Reasons For Allowance

12. The following is an examiner's statement of reasons for allowance:

Claims 21,45 and 46 are allowable over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the barbs has an origin at the lower head side.

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Giannuzzi (US 5,447,005) discloses substantially the invention as claimed. However, Giannuzzi fails to disclose that the barbs have an origin at the lower head side. Giannuzzi discloses that the barb's origin is at a side leg portion, not the lower head side.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo
AU 3677

August 19, 2004.



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600